

(2005) 09 AHC CK 0255

Allahabad High Court

Case No: Criminal Miscellaneous Bail Application No. 12469 of 2005

Ram Brikchh Yadav

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Sept. 9, 2005

Acts Referred:

- Criminal Law (Amendment) Act, 1932 - Section 7
- Penal Code, 1860 (IPC) - Section 307, 392, 411

Hon'ble Judges: Ravindra Singh, J

Bench: Single Bench

Advocate: A.K. Singh, for the Appellant; P.K. Shukla and A.G.A., for the Respondent

Final Decision: Dismissed

Judgement

Ravindra Singh, J.

Heard Sri Ashok Kumar Singh learned counsel for the applicant, learned A.G.A. and Sri Pradeep Kumar Shukla learned counsel for the complainant.

2. This application is filed with a prayer that the applicant may be released on bail in case Crime No. 183 of 2005, under Sections 392, 411, 307 I.P.C. and Section 7 of the Criminal Law Amendment Act, P.S. Kotwali, District Azamgarh.

3. From the perusal of the record it reveals that in the present case the FIR. was lodged by Sri Indra Bhusahn Agrawal at P.S. Kotwali on 13.3.2005 at 5.40 p.m. in respect of the incident which has occurred on 13.3.2005 at 5.40 p.m., The distance of the police station was about one and half km from the alleged place of occurrence. The allegation against the applicant is that the first informant was carrying a shop of general merchant. As usual he came to his house from the shop by his Indica car at 5.40 p.m. He opened the door and came out from the car with the money of Rs. 50,000/-. One person came from his back side and asked to handover the bag at the pistol point. Thereafter, he fired a shot, but the first informant could not receive injury, because he sat down, but his bag was snatched by that miscreant and he

started running. The first informant made hue and cry and fired by the licensed pistol. The miscreant was chased by the first informant and other persons. In that chasing two constables also participated, then the miscreant again fired a shot by pistol, but he was apprehended and from his possession, the bag containing the money and a country made pistol, two live and one empty cartridges were recovered. He disclosed his name as Ram Briksh Yadav. Thereafter, he was taken to the police station where the F.I.R. was lodged.

4. It is contended by the learned counsel for the applicant that the applicant was falsely implicated and prosecution story was highly improbable because the first informant did not receive any injury. According to the prosecution version the first informant was armed with licensed revolver, even then he did not cause any injury on the person of the accused. It is further contended that the applicant was falsely implicated because he was having ill will with the applicant. It is further contended that the prosecution has not come with clean hands because the applicant was not arrested as alleged by the prosecution. The correct fact is that the applicant was arrested from his house at about 4.00 p.m. on 13.3.2005 and the police has taken away Rs. 21,000/- and some ornament of his wife. The worth of the ornament was Rs. 45,000/- and the applicant is not having any criminal antecedent.

5. It is opposed by the learned A.G.A. and learned counsel for the complainant by submitting that the applicant has committed the offence of robbery. He was chased and apprehended and from his possession a sum of Rs. 50,000/-, one country made pistol having a empty cartridges in its barrel and two live cartridges were recovered. There are independent witness to support the prosecution story and the applicant has failed to show any reasonable ground of false implication, so the applicant is not entitled for bail.

6. Considering all the facts and circumstances of the case and submissions made by the learned counsel for the applicant, learned A.G.A. and learned counsel for the complainant and without expressing any opinion on the merits of the case, I find that it is not a fit case for bail at this stage.

7. Accordingly, the bail application is rejected at this stage.